

REMARKS

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Election/Restriction

In response to a telephonic request by the Examiner on September 24, 2007, Applicants' undersigned representative provisionally elected to prosecute the invention of Group I, represented by claims 1-16. The election was made without traverse. Applicants hereby affirm this election.

Status of Claims

Claims 1-14 are pending in this application with claim 1 being the sole independent claim. Claims 15-21 are canceled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to prosecute the subject matter of claims 15-21 in one or more continuation and/or divisional applications.

Claims 3, 7 and 9-12 have been amended. These claim amendments are fully supported by the application as originally filed and do not introduce any new matter. In particular, claims 3, 7, 11 and 12 have been amended to remove multiple claim dependencies. Claim 3 was also amended to clarify the abbreviation "MDV" as meaning "Marek's Disease Virus." (See, e.g., Specification, page 1, line 9). Finally, claims 9 and 10 have been amended to include the appropriate sequence identifiers. Entry and consideration of the claim amendments is respectfully requested.

Telephonic Interview with Examiner

Applicants wish to thank the Examiner and the Examiner's supervisor for the courtesy of a telephonic interview with Applicants' undersigned representative on November 29, 2007. During the interview, it was pointed out that all of the claims include reference to "feathers of the axillary tract." It was also pointed out that none of the cited references refer to or suggest axillary tract feathers. In addition, the advantages of axillary tract feathers in the context of the present invention were emphasized.

Claim Objections

A. Multiple Dependencies

Claims 7-16 were objected to under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. (Office Action, page 3). None of the currently presented claims have multiple dependencies. Accordingly, this ground of objection has been fully accommodated and should be withdrawn.

B. Sequence Identifiers (*Reply to Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures*)

Claims 9 and 10 were objected to for not including the appropriate sequence identifiers. (Office Action, page 3). In relation to this objection, a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" was issued along with the Office Action. A copy of the Notice is attached hereto.

In response to this ground of objection, and in compliance with the Notice, claims 9 and 10 have been amended to include the appropriate sequence identifiers after each nucleotide sequence recited in these claims. This ground of objection has therefore been fully accommodated and should be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

A. Davidson

Claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by Davidson *et al.*, *Avian Pathol.* 31:237-240 (June, 2002) (hereinafter "Davidson") (Office Action, page 4). Applicants respectfully traverse this rejection.

The currently presented claims are directed to methods of detecting a virus in an avian tissue sample. The claimed methods comprise extracting genetic material from an avian tissue sample and testing the extracted genetic material to detect any genetic material from the virus. Importantly, sole independent claim 1 specifies that the avian tissue sample is derived from one or more feathers of the axillary tract.

Davidson does not disclose the use of feathers of the axillary tract. The only feathers mentioned in Davidson are wing feathers. (See Davidson, page 238, middle left column). Since Davidson does not teach all of the elements of any of the currently presented claims, Davidson cannot and does not anticipate the claims. Applicants respectfully request that this rejection be reconsidered and withdrawn.

B. Handberg

Claims 1-5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Handberg *et al.*, *Avian Pathol.* 30:243-249 (2001) (hereinafter "Handberg") (Office Action, page 4). Applicants respectfully traverse this rejection.

As with Davidson, Handberg does not disclose the use of feathers of the axillary tract. Accordingly, Handberg does not teach all of the elements of any of the currently presented claims. Handberg thus cannot and does not anticipate the claims. Applicants respectfully request that this rejection be reconsidered and withdrawn.

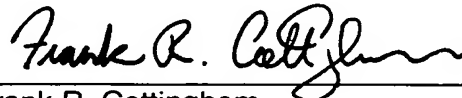
Claim Rejections Under 35 U.S.C. § 103

Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Handberg in view of Becker *et al.*, *Virus Genes* 7:277-287 (1993) (hereinafter "Becker") (Office Action, page 5). Applicants respectfully traverse this rejection.

As noted above, Handberg does not disclose the use of feathers of the axillary tract. Likewise, Becker does not disclose the use of feather of the axillary tract. Moreover, neither Handberg nor Becker provide any suggestion for using axillary tract feathers. According to MPEP § 2143.03, "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." Since not all of the elements of the currently presented claims are taught or suggested by the cited references, a *prima facie* case of obviousness has not been established. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe that this application is in condition for allowance, and prompt, favorable action thereon is earnestly solicited. If the Examiner believes that any points require additional consideration, the Examiner is invited to contact the undersigned at the telephone number provided below.



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